

Message Text

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15/14

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TREASURY:NJACHLIN

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R 062251Z AUG 75

FM SECSTATE WASHDC

TO AMEMBASSY OTTAWA

AMCONSUL MONTREAL

AMEMBASSY BERN

AMEMBASSY BONN

AMEMBASSZ PARIS

AMEMBASSY LONDON

AMEMBASSY THE HAGUE

AMEMBASSY STOCKHOLM

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AMEMBASSY NAIROBI

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AMEMBASSY KHARTOUM

AMEMBASSY LAGOS

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AMEMBASSY SAN JOSE

AMEMBASSY SANTIAGO

AMEMBASSY GUATEMALA

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AMEMBASSY BUENOS AIRES

AMEMBASSY BRASILIA

AMEMBASSY MEXICO

AMEMBASSY MONTEVIDEO
AMEMBASSY JAKARTA
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AMEMBASSY CANBERRA
AMEMBASSY WELLINGTON
AMEMBASSY NEW DELHI
AMEMBASSY DOHA
AMEMBASSY CAIRO
AMEMBASSY TUNIS
AMEMBASSY BEIRUT
INFO AMCONSUL MELBOURNE
AMEMBASSY MOSCOW

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C O R R E C T E D C O P Y (PARA 2 LINE 30)

E.O. 11652: N/A

TAGS: PORG, EAIR, ICAO

SUBJECT: ICAO DIPLOMATIC CONFERENCE ON REVISION OF HAGUE
PROTOCOL TO THE WARSAW CONVENTION, MONTREAL, SEPT. 1975

REF: (A) STATE 126571

SUMMARY: DEPT HAS SENT TO POSTS A THREE-PART PROPOSAL FOR
SUBJECT CONFERENCE REQUESTING COMMENTS AND CO-SPONSORS IN
REFTEL (A). NORWAY HAS IN THE INTERIM BEGUN ITS OWN
INITIATIVE TO DEAL WITH FIRST TWO POINTS. U.S. HAS AGREED
TO CO-SPONSOR NORWEGIAN PROPOSAL. THIS CABLE CONTAINS A
REVISED U.S. PROPOSAL TO DEAL WITH THIRD U.S. POINT FOR
WHICH WE DESIRE COMMENTS AND CO-SPONSORS. SPECIAL
INSTRUCTIONS FOR SOME INDIVIDUAL POSTS ARE INCLUDED. END
SUMMARY.

1. BACKGROUND: AFTER U.S. CIRCULATED ITS PROPOSAL, GROUP
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OF EUROPEAN STATES MET IN OSLO TO CONSIDER DIPLOMATIC
CONFERENCE ON AIR LAW. AS A RESULT OF THAT MEETING, NORWAY
HAS PUT FORWARD ITS OWN DRAFT PROPOSAL WHICH WE BELIEVE
SATISFACTORILY RESOLVES GOLD FRANC PROBLEM AND MEETS U.S.
OBJECTIVES IN FIRST TWO POINTS OF U.S. PROPOSAL. PROPOSAL
CONTAINS ADDITIONAL POINTS NOT INCLUDED IN ORIGINAL U.S.
PROPOSAL WHICH POSE NO DIFFICULTIES FOR US. U.S. HAS
ADVISED NORWAY THAT WE ARE DEFERRING TO THEIR PROPOSAL AND
ARE WILLING TO CO-SPONSOR, AND WOULD INDICATE SAME TO
COUNTRIES WE HAVE BEEN IN CONTACT WITH ON ORIGINAL U.S.
PROPOSAL. IN THE LIGHT OF COMMENTS RECEIVED FROM POSTS
AND DISCUSSIONS WITH COUNTRIES, WE HAVE DECIDED TO REDUCE

POINT THREE TO A COMPLETE DRAFT TEXT, AS SEPARATE PROPOSAL FROM GOLD FRANC ISSUE, PREPARE TO SUBMIT IT AS ADVANCE DOCUMENTATION FOR CONFERENCE, AND SEEK CO-SPONSORSHIP.

2. DRAFT PROPOSAL READS AS FOLLOWS: QUOTE: AMENDMENT OF THE PROVISIONS ON THE GUATEMALA CITY PROTOCOL RELATING TO THE CARRIAGE OF CARGO AND MAIL. PROPOSAL OF THE UNITED STATES OF AMERICA.

A SUBSTANTIAL NUMBER OF STATES REPRESENTED AT THE 21ST SESSION OF THE LEGAL COMMITTEE EXPRESSED THE VIEW THAT NEW PROVISIONS RELATING TO THE CARRIAGE OF CARGO AND MAIL SHOULD BE ADOPTED IN THE FORM OF A PROTOCOL TO THE WARSAW CONVENTION AS AMENDED AT THE HAGUE, 1955 (HAGUE PROTOCOL). IN ACCORDANCE WITH THIS VIEW, ANY PROVISIONS TO BE ADOPTED BY THE INTERNATIONAL CONFERENCE ON THE CARRIAGE OF CARGO AND MAIL WOULD CONSTITUTE REVISIONS OF THE HAGUE PROTOCOL PROVISIONS ON CARGO AND MAIL. THE SAME HAGUE PROTOCOL PROVISIONS ON CARGO AND MAIL ARE ALSO FOUND IN THE GUATEMALA CITY PROTOCOL. IT IS, THEREFORE, PROPOSED THAT ALL PROVISIONS ON CARGO AND MAIL WHICH THE INTERNATIONAL CONFERENCE ADOPTS SHOULD BECOME AMENDMENTS TO THE GUATEMALA CITY PROTOCOL AS WELL AS TO THE HAGUE PROTOCOL.

WHEN THE INTERNATIONAL CONFERENCE ADOPTS ITS AGENDA, THIS DECISION SHOULD REFLECT THE FACT THAT THE CARGO AND MAIL PROVISIONS OF THE GUATEMALA CITY PROTOCOL MAY BE LIMITED OFFICIAL USE
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AMENDED.

BECAUSE THE GUATEMALA CITY PROTOCOL HAS NOT YET ENTERED INTO FORCE, AN IDEAL OPPORTUNITY EXISTS FOR THE INTERNATIONAL CONFERENCE TO REDUCE THE NUMBER OF PROTOCOLS WHICH EXIST IN THE PRESENT CIRCUMSTANCES. THE FINAL FORM OF THE GUATEMALA CITY PROTOCOL, AFTER AMENDMENT AT THE INTERNATIONAL CONFERENCE, COULD BE ADOPTED AS AN INDEPENDENT NEW INSTRUMENT, INCLUDING ALL THE NEW REVISED PROVISIONS--PASSENGER AND BAGGAGE PROVISIONS ADOPTED AT GUATEMALA CITY, AND CARGO AND MAIL PROVISIONS ADOPTED AT MONTREAL. THIS WOULD SIMPLIFY THE CURRENT COMPLEX AND CONFUSED SITUATION. IT IS SUGGESTED THAT THE INDEPENDENT NEW INSTRUMENT COULD BE ENTITLED, "THE WARSAW CONVENTION AS AMENDED AT THE HAGUE, GUATEMALA CITY, AND MONTREAL." THIS WOULD RECOGNIZE THE IMPORTANT ROLE OF EACH OF THESE CITIES IN CONTRIBUTING TO THE FINAL FORMULATION OF THE TREATY.

WE ARE PRAPARED TO SUPPORT ANY FORM DESIRED BY OTHER

STATES FOR THE INSTRUMENT WHICH IS TO BE THE REVISION TO THE HAGUE PROTOCOL.

WE WOULD BE PREPARED TO SUPPORT NEW ARTICLES WHICH WOULD PERMIT STATES TO BECOME PARTY ONLY TO PASSENGER AND BAGGAGE, OR ONLY TO CARGO AND MAIL, PROVISIONS.

IN SUM, IT IS PROPOSED:

(A) THAT THE AGENDA OF THE INTERNATIONAL CONFERENCE INCLUDE AMENDMENT OF THE CARGO PROVISIONS OF THE GUATEMALA CITY PROTOCOL; AND

(B) THAT REVISIONS TO THE HAGUE PROTOCOL PROVISIONS ON CARGO AND MAIL ADOPTED BY THE INTERNATIONAL CONFERENCE ALSO BECOME AMENDMENTS TO THE GUATEMALA CITY PROTOCOL.

WE BELIEVE THE BEST FORM FOR THE GUATEMALA CITY PROTOCOL AS AMENDED AT MONTREAL WOULD BE A NEW TREATY, TO BE ENTITLED, "THE WARSAW CONVENTION AS AMENDED AT THE LIMITED OFFICIAL USE LIMITED OFFICIAL USE

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HAGUE, GUATEMALA CITY, AND MONTREAL." END QUOTE.

3. ACTION REQUESTED: WHERE APPROPRIATE AS FOLLOW-ON TO EARLIER CONTACT, POSTS SHOULD DELIVER TEXT OF U.S. PROPOSAL TO HOST GOVERNMENTS AND DETERMINE WHETHER THEY WOULD CONSIDER CO-SPONSORSHIP. YOU SHOULD EXPLAIN TEXT IS A DRAFT, AND IF THEY WOULD LIKE PORTIONS REDRAFTED, THEIR SUGGESTED NEW LANGUAGE SHOULD BE RECEIVED BY US WITHIN ONE WEEK. WE WOULD THEN CABLE A FINAL TEXT TO THOSE CONSIDERING CO-SPONSORSHIP, WAIT THREE DAYS TO OBTAIN AGREEMENT ON CO-SPONSORSHIP, AND THEN FORMALLY SUBMIT PROPOSAL. (F.Y.I.: WE WILL SUBMIT PROPOSAL WHETHER OR NOT OTHERS CO-SPONSOR. END F.Y.I.) AFTER FORMAL SUBMISSION, PROPOSAL WILL BE CIRCULATED TO POSTS GENERALLY TO BE HANDED OVER TO GOVERNMENTS EXPECTED TO ATTEND CONFERENCE, SO IT CAN BE CONSIDERED BEFORE DELEGATIONS LEAVE FOR MONTREAL.

4. TIME IS OF ESSENCE IN VIEW OF FACT THAT KEY ELEMENT OF U.S. PROPOSAL IS THE ADOPTION OF AGENDA WHICH WILL PERMIT MODIFICATION OF THE CARGO AND MAIL PROVISIONS IN THE GUATEMALA PROTOCOL. ADOPTION OF THE AGENDA IS AN ITEM WHICH COMES ORDINARILY ON FIRST DAY OF CONFERENCE.

5. IN ADDITION, DEPARTMENT WOULD APPRECIATE NAME OF HOST GOVERNMENT CONTACTS FROM EACH POST ON ORIGINAL U.S. PROPOSAL. THIS INFORMATION WILL BE PROVIDED TO NORWEGIAN GOVERNMENT SO THAT CONTACTS ON THEIR PROPOSAL ARE

CO-ORDINATED WITH EARLIER U.S. EFFORTS. HOST GOVERNMENTS WHICH HAVE EXPRESSED DESIRE TO CO-SPONSOR U.S. THREE-POINT PROPOSAL SHOULD BE ADVISED OF U.S. APPRECIATION AND THE SUBSEQUENT SUBSTITUTION OF NORWEGIAN PROPOSAL FOR POINTS ONE AND TWO. THE COUNTRIES HAVE BEEN, OR WILL BE, CONTACTED BY NORWAY DIRECTLY BEFORE CONFERENCE. WE ARE HOPEFUL THAT A NUMBER OF GOVERNMENTS WILL BE IN POSITION TO CO-SPONSOR BOTH NORWAY'S AND PRESENT U.S. PROPOSAL.

6. FOR CAIRO: U.S. PROPOSAL ABOVE HAS BEEN PREPARED WITH A SPECIFIC VIEW TO INCORPORATE SUGGESTIONS ARISING IN MEETING OF WILLIS AND EMBOFF CRAIG WITH SHINNAWI. THIS IS PARTICULARLY TRUE WITH RESPECT TO CONCEPT OF DEVELOPMENT LIMITED OFFICIAL USE
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OF A SIMPLIFIED SINGLE NEW INSTRUMENT. DEPARTMENT HOPES THAT EGYPT CAN AGREE TO CO-SPONSOR AND ACTIVELY PRESS AT CONFERENCE FOR ADOPTION OF PROPOSAL. IF EGYPT HAS ADDITIONAL COMMENTS ON DRAFT, WE WOULD MAKE EVERY EFFORT TO INCORPORATE THEM, SO WE WOULD APPRECIATE AS PROMPT A TRANSMISSION AS POSSIBLE.

7. FOR PARIS - F.Y.I.: FRANCE IS ONE OF KEY COUNTRIES OF CONFERENCE AS GUILLAUME CAN BE EXPECTED TO PLAY MAJOR ROLE. IN VIEW OF HIS POSSIBLE LEADERSHIP ROLE, WE ARE ANXIOUS TO KNOW IF GOF CAN SUPPORT (IF NOT CO-SPONSOR) NORWAY-GOLD AND U.S.-CARGO PROPOSALS. END F.Y.I.

8. FOR THE HAGUE: THE RESPONSE TO QUESTIONS RAISED BY HALFF (THE HAGUE 3493) ARE AS FOLLOWS: NORWAY WILL TAKE THE LEAD ON THE SDR CLAUSE WITH THE SUPPORT AND CO-SPONSORSHIP OF U.S. (AND OTHERS ARE EXPECTED). NORWAY HAS ALREADY BEGUN INITIATIVE TO PLACE SDR QUESTION ON AGENDA. TEXT OF THEIR PROPOSAL HAS BEEN GIVEN TO GON. THIS CABLE TRANSMITS ONLY U.S. INITIATIVE FOR POINT THREE OF U.S. PROPOSAL WITH A TEXT FOR CO-SPONSORSHIP.

9. FOR LAGOS: DEPT LEAVES TO DISCRETION OF POST TIMING OF CONTACT WITH GON. ON BASIS OF AJALA/WILLIS MEETING, WE WOULD NOT EXPECT THAT THEY WOULD BE INTERESTED IN FORMAL CO-SPONSORSHIP, BUT HOPE THEY CAN SUPPORT AT CONFERENCE. IN ANY EVENT, WE WISH TO CONTINUE FULLEST POSSIBLE CONSULTATIONS WITH THEM ON EVENTS RELATING TO INTERNATIONAL CONFERENCE.

10. FOR DOHA: S. GAYED HAS BEEN CONTACTED BY FAA CHIEF COUNSEL WHILE IN LONDON AND ADVISED IN GENERAL OF PRESENT STATE OF AFFAIRS. GAYED WAS ADVISED THAT NEW U.S. PROPOSAL WOULD BE FORTHCOMING VIA THIS CABLE FROM DEPT. GAYED WILL BE CONTACTED BY USDEL UPON ARRIVAL IN MONTREAL.
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